

DOE EM CLEANUP AND COMPLIANCE AGREEMENT FACT SHEET

SUMMARY

Data Element	Data
Site	The Hanford Site
Agreement Name	Hanford Federal Facility Agreement and Consent Order (Tri-Party)
State	Washington
Agreement Type	Federal Facility Agreement
Legal Driver(s)	CERCLA/RCRA
Scope Summary	The purpose of the Agreement is to ensure that the environmental impacts associated with past and present activities at Hanford are thoroughly investigated and that appropriate response actions are taken to protect the public health, welfare, and the environment.
Parties	DOE; US EPA; State of Washington Department of Ecology
Date	May 15, 1989 (last amendment 12/1998)

SCOPE

- Ensure that the environmental impacts associated with past and present activities at Hanford are thoroughly investigated and that appropriate response actions are taken to protect the public health, welfare, and the environment.
- Provide a framework for permitting treatment, storage, and disposal (TSD) units, promote effective investigation and remediation of contamination, and avoid litigation between the parties.
- Ensure compliance with RCRA, the Washington Hazardous Waste Management Act, and CERCLA.
- Establish a procedural framework and schedule for developing, prioritizing, implementing, and monitoring response actions.

ESTABLISHING MILESTONES

- Specific major and interim non-rolling milestones are set forth in Appendix D of the Action Plan of the Agreement. Both major and interim milestones are enforceable under the Agreement.
- A schedule for specific steps in the CERCLA process are established in article XVII, and stipulate that DOE must begin an RI/FS within 6 months of an area being listed on the NPL and that remediation must begin within 15 months after completion of the RI/FS.
- The values expressed by the Hanford stakeholders must be considered when determining the workscope, priorities, and schedule.
- DOE must notify the lead regulatory agency in writing within 7 days of any additional work or work modification that will adversely affect the work schedule.
- Changes to major milestones require the approval of the signatories to the Agreement.
- Major milestones fall into three categories; disposal of tank wastes, cleanup of past-practice units, and RCRA and HWMA operating requirements.
- Appendix D of the document contains interim milestones and target dates.
- Changes to target dates or supporting schedules that do not impact an interim milestone, require the approval of DOE and the lead regulatory agency project managers.
- Enforceable milestones have been established for up to 18 years into the future.

FUNDING

- DOE must submit an annual budget with estimated funding levels to achieve full compliance with the Agreement.
- Very detailed, specific guidelines are provided in Article XLVIII of the Agreement on how, and on what schedule, DOE must work with the Department of Ecology to gather input into the budget formulation.
- DOE-RL must identify any unresolved issues raised by Ecology and EPA when they submit the annual budget request to DOE-HQ.
- If the congressional budget appropriation differs from the funding levels required to comply with any milestones or other requirements, DOE can submit a change request in accordance with the Action Plan.

- During the budget year, DOE must notify Ecology and EPA of any proposed action to internally reallocate funding at the ADS level if the reallocation will significantly affect the schedule.
- The requirements for payments or obligations of funds should not be interpreted to require a violation of the Anti-Deficiency Act.
- If sufficient funds are not available, the parties will attempt to agree upon proper adjustments to the milestones, however, the State reserves the right to initiate any other action that would be appropriate absent the agreement.
- Insufficient availability of funds can constitute a force majeure if DOE has made timely request for the funds as part of the budgetary process established in the Agreement.

PENALTIES

- The state Department of Ecology generally has the lead enforcement authority for RCRA treatments, storage, and disposal work.
- The US EPA generally has the lead enforcement authority for remediation conducted under CERCLA.
- Either EPA or the Washington Department of Ecology will be designated as the lead regulatory agency for each operable unit, TSD group/unit, or milestone. IF EPA and the Department of Ecology can not agree on the choice of lead agency then the issue will enter the dispute resolution process. If the matter can not be resolved, both parties reserve the right to impose requirements directly on DOE.
- The State of Washington, and any of its agencies constitute a “person” under RCRA and can bring suit against DOE to enforce the Agreement.
- Ecology can assess stipulated penalties on DOE if DOE fails to submit a primary document on schedule, or fails to comply with a term or condition of the agreement. Stipulated penalties may be assessed for \$5,000 for the first week and up to \$10,000 for each additional week.
- If an extension to a deadline request is denied and the dispute resolution process is invoked, stipulated penalties may be assessed and may accrue from the date of the original schedule.